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**Question:** Are there any facilities statutorily exempt from CFATS?

**Answer:**

The following facilities are statutorily exempted from the CFATS:

- Facilities regulated pursuant to the Maritime Transportation Security Act (MTSA);
- Public Water Systems, as defined in the Safe Drinking Water Act;
- Treatment Works, as defined in the Federal Water Pollution Control Act;
- Facilities owned or operated by the Department of Defense or the Department of Energy; and
- Facilities subject to regulation by the Nuclear Regulatory Commission (NRC).

**MTSA Exemption:** DHS will apply the MTSA exemption to facilities regulated under 33 CFR Part 105, Maritime Facility Security regulations. Part 105 of Title 33 of the Code of Federal Regulations is the only regulation that imposes the security plan requirements of 46 U.S.C. 70103 on maritime facilities. DHS recognizes that only a portion of some maritime facilities are regulated under MTSA. In such situations, only those portions of the facility regulated under MTSA are exempt from the CFATS. The rest of the facility may be subject to the CFATS regulations.

**Public Water Systems Exemption:** If a facility contains a unit that is a Public Water System regulated under the Safe Drinking Act, but also contains components that are not so regulated, the facility shall select "Partially" when filling out the statutory exemption page of the Top-Screen. The facility should then complete the remainder of the Top-Screen for the portion of the facility that is not exempted.

**NRC Exemption:** DHS will apply the NRC statutory exemption only to facilities where NRC already imposes significant requirements and regulates the safety and security of most of the facility, not just a few radioactive sources. For example, a power reactor holding a license under 10 CFR Part 50, a special nuclear material fuel cycle holding a license under 10 CFR Part 70, and facilities licensed under 10 CFR Parts 30 and 40 that have received security orders requiring increased protection, are all exempt from 6 CFR Part 27. A facility that only possesses small radioactive sources for chemical process control equipment, gauges, and dials, is not exempt.